

9715 11

NASD REGULATION AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the Matter of the Arbitration Between

Name of Claimants

Jeffrey Keith Trilling
Daniel Eugene Boyd

96-02992

Name of Respondents

La Jolla Capital Corporation
Harold Bailey Gallison
Gregory Hilsenrath
Michael E. Dudley

REPRESENTATION

Claimants Jeffrey Keith Trilling and Daniel Eugene Boyd (jointly referred to as "Claimants") were represented by Morris L. Levin, Attorney at Law, Washington, D.C.

Respondents La Jolla Capital Corporation ("La Jolla") and Harold Bailey Gallison ("Gallison") were represented by James C. Weaver, Attorney at Law, San Diego, CA.

Respondents Gregory Hilsenrath ("Hilsenrath") and Michael E. Dudley ("Dudley") were represented by David H. Zimmer, Attorney at Law, Potomac, MD.

CASE INFORMATION

Statement of Claim filed: July 10, 1996

Amended Complaint in Arbitration filed August 16, 1996.

Claimant Jeffrey Keith Trilling ("Trilling") and Daniel Eugene Boyds' ("Boyd") submission Agreement signed on: June 27, 1996

La Jolla and Gallisons' Joint Statement of Answer filed: January 14, 1997

Gallison's Uniform Submission Agreement signed on: December 2, 1996

La Jolla's Uniform Submission Agreement executed by B.J. Gallison, President of La Jolla Capital Corporation: December 2, 1996

Hilsenrath and Dudleys' Answer to Claimants' Amended Statement of Claim filed: January 24, 1997

Hilsenrath's Uniform Submission Agreement signed on: January 8, 1997

Dudley's Uniform Submission Agreement signed on: January 8, 1997

HEARING INFORMATION

Hearing Dates/Sessions: August 18, 1997 - two sessions
August 19, 1997 - two sessions
August 20, 1997 - two sessions

Hearing Location: NASD Regulation, Inc., District Office, Washington, D.C.

CASE SUMMARY

Claimants alleged, among other things, that while they were not in their office on May 3, 1996, the Respondents sold Claimants' clients stock in Comparator Systems, Inc. ("Comparator"), without authorization or knowledge of Claimants or of their clients. Claimants alleged that when they requested an explanation by Respondents of these unauthorized sales, they were told by Respondents: (1) that the sales were authorized by Trilling, and (2) that Claimants were to tell their clients that there were pre-existing sell orders for their stock. Claimants denied that they were responsible for the unauthorized sales, and refused to tell their clients that they had pre-existing sell orders. Claimants alleged that they were threatened by Respondents. Claimants alleged that Respondents told Claimants that they would not be paid by La Jolla; that they would be fired by La Jolla; that any awards resulting from these sales would be charged to Claimants; and, that Claimants would never be able to work in the securities business. Claimants resigned from La Jolla May 9, 1996. Claimants maintained that on June 10, 1996, Respondents La Jolla and Gallison issued Form U-5's for Trilling and Boyd stating that they were fired by La Jolla for making unauthorized sales, and that there were several customer complaints made against each Claimant for unauthorized sales. Claimants alleged that the complaints were against La Jolla and not Claimants.

Respondents La Jolla and Gallison maintained that all information published in the Form U-5s of Claimants was true and accurate. The publications were also privileged in that they were made to the NASD in accordance with the mandatory rules of the NASD. An investigation regarding the sale of the Comparator stock was accomplished by La Jolla. La Jolla and Gallison maintained that despite the Claimants failure to cooperate and actual impedance of the investigation by contacting customers effected by the sale, the investigation revealed that in all likelihood, Boyd did not contact the branch managers or his clients regarding the sale of the stock, but that Trilling was in contact with the branch managers and did in fact tell them to sell the Comparator stock. Respondents La Jolla and Gallison maintained that Trilling had the authority to transact business in Boyd's clients accounts. La Jolla and Gallison maintained that the Form U-5s were amended within a reasonable time to reflect the information. La Jolla and Gallison further maintained that Boyd and Trilling had a history of customer complaints and neither their reputations nor business prospects were not injured. La Jolla and Gallison maintained that Claimants sustained no damages as a result of any acts of the Respondents.

Respondent Hilsenrath and Dudley maintained that the sales of Comparator stock were authorized by Trilling, and the resulting actions were caused by Claimants.

RELIEF REQUESTED

Claimants in their closing memorandum requested the following damages:

For commissions owed to them	\$18,818
For expenses and start-up costs	\$38,938

For attorneys' fees	\$65,000
For proven costs in this proceeding	\$1,500
For a total of	\$124,256

Claimants seek damages for the injuries suffered to their names and reputations, in the amount of \$200,000 for each Claimant. Claimants also seek damages in the amount of \$200,000 for the continuing loss of earnings and income directly resulting from the ongoing defamation and libel. Claimant requested exemplary damages in the amount of \$1,000,000 for the reckless and knowingly false statements made by Respondents. Claimants further requested that false Form U-5s be expunged from the records of Claimants.

Respondents requested that Claimants' claim be dismissed in its entirety, and that they be awarded costs, reasonable attorneys' fees and such further relief as the arbitrators may deem just.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD Regulation, Inc. ("NASD Regulation").

That the postponement fee deposited by La Jolla for the postponement of Hearings scheduled for July 22, 23 and 24, 1997 shall be retained.

The parties agreed to submit arbitration briefs/closing arguments in writing by Tuesday, September 2, 1997.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing arbitration briefs, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. That Respondents La Jolla Capital Corporation and Harold Bailey Gallison are jointly and severally liable to Claimant Jeffrey Keith Trilling for compensatory damages and shall pay to Trilling the amount of \$15,000; inclusive of interest.
2. That Respondents La Jolla Capital Corporation and Harold Bailey Gallison are jointly and severally liable to Claimant Jeffrey Keith Trilling for punitive damages in the amount of \$80,000. La Jolla and Gallison shall pay to Trilling the sum of \$80,000 as punitive damages. The conduct of Respondents La Jolla and Gallison was reckless and statements made by Respondents were knowingly false.
3. That Respondents La Jolla Capital Corporation and Harold Bailey Gallison are jointly and severally liable to Claimant Daniel Eugene Boyd for compensatory damages and shall pay to Boyd the

amount of \$1,000; inclusive of interest.

4. That Respondents La Jolla Capital Corporation and Harold Bailey Gallison are jointly and severally liable to Claimant Daniel Eugene Boyd for punitive damages in the amount of \$80,000 and shall pay to Boyd the sum of \$80,000 in punitive damages. The conduct of Respondents La Jolla and Gallison was reckless and statements made by Respondents were knowingly false.

5. Claimants' claim against Respondents Gregory Hilsenrath and Michael E. Dudley are denied in their entirety.

6. THE PANEL HEREBY ORDERS expungement of the following Form U-5 entries on the grounds that they are false and misleading:

(A) with respect to Claimant Daniel Eugene Boyd:

(1) Items 11, 12, 13B and 15 of all Forms U-5 dated June 10, 1996, and all accompanying Disclosure Reporting Pages except that relating "DBCC for NASD District No. 2 - Improper Sale of Penny Stocks....," and

(2) Item 13B and accompanying Disclosure reporting page of all Forms U-5 dated October 8, 1996;

(B) with respect to Claimant Jeffrey Keith Trilling:

(1) Items 11, 12 and 15 of all Form U-5 dated June 10, 1996, and all accompanying Disclosure Reporting Pages except that relating to "Elizabeth Stapleton Arbitration" and "DBCC for NASD District No. 2 - Improper Sale of Penny Stocks....," and

(2) Item 13B and accompanying Disclosure Reporting Page of all Form U-5 dated October 8, 1996.

7. That each party shall bear their respective costs, including attorneys' fees, except as forum fees are specifically addressed below.

8. Any and all Claims for relief not specifically addressed herein, are denied in their entirety.

FORUM FEES

Pursuant to Rule 10205 of the Code of Arbitration Procedure, the following Forum Fees are assessed.

6 hearing sessions x \$1,000 = \$6,000 minus hearing session deposit of \$1,000 = net \$5,000 due.
Respondent La Jolla paid its non refundable surcharge in the amount of \$500.

Forum Fees Assessed Against: Respondents La Jolla and Gallison are jointly and severally assessed hearing session fees in the amount of \$3,000.

Trilling/Boyd Award
Case No. 96-02992
Page 5


Respondents Hiisenrath and Dudley are each assessed forum fees in the amount of \$1,000.

Fees are payable to the NASD Regulation, Inc.

DATE SIGNED

Concurring Arbitrators' Signatures

9/22/91


Edgar T. Bellinger, Esq. - Chairman
Public Arbitrator

Edward M. Statland, Esq. - Panelist
Public Arbitrator

Ida C. Draim, Esq. - Panelist
Industry Arbitrator

Date Award Served by NASD Regulation:

September 26, 1991

Trilling/Boyd Award
Case No. 96-02992
Page 5

Respondents Hilsenrath and Dudley are each assessed forum fees in the amount of \$1,000.

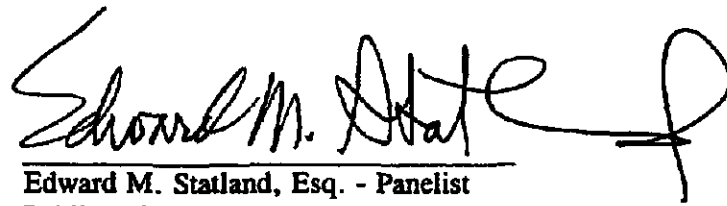
Fees are payable to the NASD Regulation, Inc.

DATE SIGNED

Concurring Arbitrators' Signatures

9/23/97

Edgar T. Bellinger, Esq. - Chairman
Public Arbitrator



Edward M. Statland, Esq. - Panelist
Public Arbitrator

Ida C. Draim, Esq. - Panelist
Industry Arbitrator

Date Award Served by NASD Regulation:

September 24, 1997

96-02992
Trilling/Boyd Award
Case No. 96-02992
Page 5

Respondents Hilsenrath and Dudley are each assessed forum fees in the amount of \$1,000.

Fees are payable to the NASD Regulation, Inc.

DATE SIGNED

Concurring Arbitrators' Signatures

Edgar T. Bellinger, Esq. - Chairman
Public Arbitrator

Edward M. Statland, Esq. - Panelist
Public Arbitrator

9/22/97

Ida C. Drain

Ida C. Drain, Esq. - Panelist
Industry Arbitrator

Date Award Served by NASD Regulation:

September 26, 1997